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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

TRIXIA GUERRERO,

Plaintiff,

v.

MERCEDES-BENZ USA, LLC, et
al.,

Defendants.

Case No. 5:23-cv-00242-SSS-SPx

**ORDER DENYING PLAINTIFF'S
MOTION TO REMAND [DKT. 15]**

1 Before the Court is Plaintiff’s Motion to Remand this Case to the Superior
 2 Court of the State of California for the County of Riverside (the “Motion”). [Dkt.
 3 25]. For the following reasons, Plaintiff’s Motion is **DENIED**.

4 **I. BACKGROUND**

5 On or about September 19, 2021, Plaintiff purchased a pre-owned vehicle
 6 from Mercedes-Benz of Temecula. On December 3, 2022, Plaintiff filed an
 7 action against Defendant Mercedes-Benz USA, LLC (“Mercedes-Benz”) in the
 8 Superior Court of the State of California for the County of Riverside. [Dkt. 15
 9 at 3]. Guerrero alleges two federal causes of action and three state law causes of
 10 action. Both federal causes of action arise under the Magnuson-Moss Warranty
 11 Act, 15 U.S.C. § 2310(d)(1)(B). Mercedes-Benz removed the case from
 12 Riverside Superior Court on February 14, 2023, asserting federal question
 13 jurisdiction pursuant to 28 U.S.C. § 1331. [Dkt. 1].

14 **II. LEGAL STANDARD**

15 Under 28 U.S.C. § 1331, “[t]he district courts shall have original
 16 jurisdiction of all civil actions arising under the Constitution, laws, or treaties of
 17 the United States.” Under 28 U.S.C. § 1441(a), “any civil action brought in a
 18 State court of which the district courts of the United States have original
 19 jurisdiction, may be removed by the defendant . . . to the district court of the
 20 United States[.]”

21 The removal statutes are strictly construed and remand to the state court is
 22 to be granted where there are doubts as to the right of removal. *Jordan v.*
 23 *Nationstar Mortg. LLC*, 781 F.3d 1178, 1182 (9th Cir. 2015). District courts
 24 must remand the case “[i]f at any time before final judgment it appears that the
 25 district court lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c); *see also*
 26 *Smith v. Mylan, Inc.*, 761 F.3d 1042, 1044 (9th Cir. 2014).

1 III. DISCUSSION

2 Plaintiff argues this Court does not have jurisdiction because Defendant
 3 has not established that the amount in controversy is greater than \$50,000, as
 4 required in order to establish federal jurisdiction under the Magnuson-Moss
 5 Warranty Act, 15 U.S.C. § 2310(d)(3)(B).¹ In order for file a claim in district
 6 court under the Magnuson-Moss Warranty Act, the amount in controversy must
 7 be at least \$50,000. *See* 15 U.S.C. § 2310(d)(3)(B). If the amount of
 8 controversy is less than \$50,000, the plaintiff must instead file its Magnuson-
 9 Moss Warranty Act claim in any State or in the District of Columbia. 15 U.S.C.
 10 §§ 2310(d)(1)(A)–(B), 2310(d)(3)(B). For the purposes of the Magnuson-Moss
 11 Warranty Act, the amount in controversy is excludes interests and costs and is
 12 “computed on the basis of all claims to be determined in th[e] suit.” *Id.*
 13 § 2310(d)(3)(B).

14 Here, Plaintiff alleges that pursuant to the Song-Beverly Consumer
 15 Warranty Act, Cal. Civ. Code § 1794(c), Plaintiff is entitled to a civil penalty of
 16 two times the amount of her actual damages. [Dkt. 1-1 ¶ 28]. The two-time
 17 civil penalty Plaintiff seeks is not an “interest[] or cost[]” and may thus be
 18 included as part of the computation “of all claims to be determined” in the case.
 19 15 U.S.C. § 2310(d)(3)(B); *see also Brady v. Mercedes-Benz USA, Inc.*, 243 F.
 20 Supp. 2d 1004, 1009 (N.D. Cal. 2002) (including the Song-Beverly Act’s civil
 21 penalty of up to two times the amount of actual damages for the purposes of
 22 calculating amount in controversy under the Magnuson-Moss Warranty Act).

23 In the complaint, Plaintiff seeks, inter alia, restitution, incidental and
 24 consequential damages, actual and statutory damages, and a civil penalty of two
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 27 ¹ Plaintiff mentions that Defendant was required to satisfy the procedural
 28 requirements of removal, but does not raise any substantive arguments noting
 Defendant’s failure to complete any procedural requirements. [*See* Dkt. 15 at
 7].

1 times Plaintiff's actual damages. [Dkt. 1-1 at 16]. In its Notice of Removal,
2 Defendant provides evidence to suggest that the value of the vehicle in dispute
3 was at least \$23,201.00 at the time of purchase, [Dkt. 1-2], which means
4 Plaintiff's prayer for restitution is approximately worth \$23,201.00.²
5 Additionally, the two-time civil penalty Plaintiff seeks to recover under the
6 Song-Beverly Act is worth approximately \$46,602.00. [Dkt. 1-1 ¶ 28]. Thus, a
7 reasonable estimate for the amount in controversy is at least \$69,603.00, which
8 exceeds the \$50,000 required amount under the Magnuson-Moss Warranty Act.
9 Thus, this Court has federal question jurisdiction over the case.

10 **IV. IV. CONCLUSION**

11 Accordingly, Plaintiff's motion to remand is **DENIED**.

12 **IT IS SO ORDERED.**

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14 Dated: June 20, 2023



15 SUNSHINE S. SYKES
16 United States District Judge
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27 ² In Plaintiff's Reply brief, Plaintiff concedes "the agreed upon value of the
28 vehicle is \$38,388.00," [Dkt. 18 at 4], which means the amount in controversy is
likely even greater than the Court's estimate.